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card or statement of the record of his service, although he may have been unable to obtain other employment in consequence of such refusal by the company.

The duty to give a recommendation or clearance card to a discharged employee is the subject of a note to these cases.

EQUITY PRACTICE—PARTIES—TRUSTEES.—The personal representative of a deceased creditor in a trust deed is a necessary party to a bill in equity to remove a cloud upon the title to the mortgaged property and to subject it to the payment of the debt. The fact that the trustee in the deed is a party to the suit is not sufficient. *Bryan v. McCann* (W. Va.), 47 S. E. 143.

Per Miller, J.:

"One of the material questions raised and controverted by the pleadings, and upon which proof was taken and filed is the amount, if any, which is due the estate of Mrs. Foster from C. A. and S. C. McCann upon their notes to her, constituting a part of the assets of decedent's estate. Bryan, trustee, the plaintiff, has no pecuniary or personal interest in the debt. He merely holds the legal title to the property conveyed to him in trust by the trust deed as security for the debt. As a general rule, a trustee's authority over the trust property is defined and limited by the instrument creating the trust, and he should be guided strictly by its provisions. *Atkinson v. Beckett*, 34 W. Va. 584, 12 S. E. 717. He is the agent for both the creditor and debtor in the debt for which the trust is given. It is the duty of the trustee to look to the rights and interests of the trust debtor, as well as to those of the trust creditor. He is bound to act impartially between them. *Rossett v. Fisher*, 11 Gratt. 492; *Lively v. Winton*, 30 W. Va. 554, 4 S. E. 451; *Hartman v. Evans*, 38 W. Va. 669, 18 S. E. 810. Unless the trustee is authorized to do so by the instrument conferring his authority, under which he acts, he cannot collect the trust funds, and give acquittances or releases therefor. As trustee, he should not be a contesting litigant in the matter of which he is trustee, to contest with the creditor or debtor the amount or validity of the trust debt; but, in equity, he should always be party as trustee. *Turk v. Skiles*, 38 W. Va. 404, 18 S. E. 561. There must be an administrator to represent it, before an adjudication can be had in court concerning the personal property of an intestate decedent. 15 L. R. A. 491, note; *Smith v. Denny*, 37 Mo. 20; *Hays' Ex'r v. Hays*, 5 Munf. 418; *Weeks v. Jewett*, 45 N. H. 540.

RAILROADS—EASEMENTS—PRESCRIPTION—INJUNCTION—JURISDICTION OF FEDERAL COURTS.—In the case of the *Louisville & Nashville Railroad Company v. Smith*, 128 Fed. 1, the Circuit Court of Appeals for the Fifth Circuit affirms certain propositions which together form the latest milestone in the steady progress of the equitable jurisdiction of the federal courts. They are as follows:

1 Where a railroad company has the charter power to acquire a right of way for railroad purposes, and it enters upon lands with the consent or license of the owner, and builds its railroad, expending money in the prosecution of the work, and holds it continuously for a period of more than 40 years, running trains over it daily, and exercising the acts of ownership that are necessary to keep